

Message Text

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ACTION L-02

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FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC 9060

INFO AMCONSUL CALCUTTA

C O N F I D E N T I A L NEW DELHI 7420

E.O. 11652: GDS

TAGS: PINT, IN

SUBJ: CALCUTTA CONSULAR DISTRICT: DISPUTED JURSDICTION

1. THIS ISSUE HAS CONTINUED TO LINGER ON AS A PROBLEM AND WILL ONCE MORE COME TO THE FORE WHEN DAVID KORN ARRIVES TO TAKE UP HIS DUTIES AS CONSUL GENERAL IN TWO WEEKS. WE WILL NOTIFY THE MEA THAT HE HAS ARRIVED AT POST. SHOULD WE CONTINUE TO FORMALLY NOTE OUR POSITION THAT KORN'S CONSULAR DISTRICT EXTENDS THROUGH THE NORTHEASTERN STATES OF INDIA WHEN WE DO SO? WE WOULD PLAN TO INCLUDE SIKKIM IN THAT LAST AS WELL SINCE IT HAS BECOME A STATE SINCE PICKERING DEPARTED. SINCE SIKKIM IS BEHIND THE "SECURITY LINE" THE INDIANS HAVE ESTABLISHED AND WHICH THEY HAVE USED AS THE JUSTIFICATION FOR EXCLUDING CALCUTTA CONSULAR JURISDICTION, WE ASSUME THEY WILL NOT ACCEPT SIKKIM AS BEING WITHIN KORN'S EXEQUATOR BUT, IF WE ARE GOING TO HOLD TO OUR POSITION ON THE REST OF THE AREA, WE SEE NO HARM IN MAKING THE EFFORT.

2. IN PART BECAUSE WE HAVE NOT WANTED TO WEAKEN OUR POSITION THAT THE CONSULATE GENERAL IN CALCUTTA CONTINUES TO EXERCISE CONSULAR JURISDICTION OVER THE NORTHEAST, WE HAVE NOT PRESSED TO HAVE EMBASSY OFFICERS VISIT THE AREA, ALTHOUGH LAST YEAR MEA WAS PREPARED TO ALLOW AN EMBASSY OFFICER (GRANT SMITH) TO MAKE A TRIP AT THE SAME TIME THAT IT TURNED DOWN THE APPLICATIONS OF PICKERING AND BURLEIGH.

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AT THAT TIME WE REJECTED THIS DISCRIMINATION AND NO ONE WENT.

3. IF WE ARE NOT GOING TO PRESS THE ISSUE FURTHER--AND WE WOULD HAVE TO GO AT LEAST TO THE FOREIGN SECRETARY AND PROBABLY THE FOREIGN MINISTER NEXT (THE CHIEF OF PROTOCOL HAVING TURNED THE DCM DOWN FLAT ON OUR POSITION LAST JUNE (NEW DELHI 8516))--AND IF WE ARE NOT PREPARED TO CONSIDER ANY RETALIATORY LIMITATION OF INDIAN CONSULAR JURISDICTION IN THE US, SHOULD THE EMBASSY IN PRACTICE ACCEPT THE MEA POSITION AND TAKE ON CONSULAR RESPONSIBILITIES FOR THE NORTHEASTERN AREA ITSELF?

4. OUR OWN JUDGMENT IS THAT THE INDIANS ARE WRONG IN TERMS OF GENERAL INTERNATIONAL PRACTICE (AND THE VIENNA CONVENTION) SINCE CONSULAR DISTRICTS ARE SUPPOSED TO BE SET BY MUTUAL AGREEMENT. BUT WE ARE NOT SURE WHAT WE CAN DO ABOUT ALL THIS IN PRACTICAL TERMS. WE MIGHT NOTE THAT FOR SUBTLE REASONS BASED ON THE GROUNDS THAT THE COMMONWEALTH DEUPTY HIGH COMMISSIONERS ARE FORMALLY PART OF THEIR HIGH COMMISSIONS IN DELHI, THIS PROBLEM OF CONSULAR JURISDICTION HAS NOT BEEN APPLIED TO THE BRITISH AND AUSTRALIAN DEPUTY HIGH COMMISSIONS IN CALCUTTA. IT DOES APPEAR TO APPLY TO EVERYONE ESLE, EXCEPT THE SOVIETS WHO HAVE NOT CHANGED THEIR CONSUL GENERAL SINCE THE POLICY WENT INTO EFFECT.
SCHNEIDER

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